

## APPENDIX C

### BCDC PERMITS BALANCING PUBLIC ACCESS AND WILDLIFE PROTECTION

Over the past thirty years, BCDC has frequently confronted the question of how to balance the sometimes competing interests of improving public access and preserving and enhancing wildlife habitat in the Bay. The following brief project descriptions demonstrate how BCDC reconciled these issues in certain of its permit decisions.

1. BCDC Permit No. 13-83, The Ashton Company and American Savings and Loan; Strawberry Spit, Mill Valley, Marin County.

This project involved the construction of 62 single family residences on Strawberry Spit, a peninsula of made-land constructed with dredged spoils in the early 20<sup>th</sup> Century. A public access trail was provided along the Bay shoreline, along with two open spaces and public parking. Fourteen of the homes on the northern half of the peninsula were subsequently allowed to construct boat docks for recreational boats and permission to dredge a navigation channel at the perimeter of the peninsula was also granted. The northernmost tip of the peninsula was used as a haul-out area by Harbor Seals.

Measures taken to reduce disturbance: To reduce the impact of recreational boaters on the haul-out area, the northern end of the peninsula was made into an island by excavating a 165-foot-wide channel across the peninsula. The seal haul-out area was enlarged by excavating approximately 0.5 acres of the shoreline. The southern end of this new island was fenced and planted with dense vegetation to reduce visual contact with public access areas and private yards on the peninsula. Signs were placed to warn the public of the location of the seal haul-out and to prohibit human access to the island.

2. BCDC Permit No. 9-87, California Department of Transportation (Caltrans); Central Avenue/I-580 interchange.

In 1987-89, Caltrans widened and extended I-580 from the Richmond San Rafael Bridge to the Richmond-Albany city border. The Central Avenue interchange portion of the project was within BCDC jurisdiction. The Commission authorized construction of the freeway improvements and required that a public access path be provided along the Bay shoreline beside the interchange and a portion of the freeway. This is a “spine” (main) segment of the Bay Trail. At this location, the freeway lies between two high-value tidal wetlands—The Hoffman Marsh and the Albany Mudflat. Small amounts of fill were needed to accommodate the public access path adjacent to the freeway. To mitigate for the fill, Caltrans was required to construct a 10,000 square foot tidal wetland adjacent to the new trail.

Measures taken to reduce disturbance: Caltrans was required to construct a four-foot tall fence at the edge of the trail to prevent human and pet access to the Albany mudflat and to provide interpretive signage at the trailhead to inform trail users of the habitat values and to discourage behavior that would disturb wildlife. This segment of the Bay Trail along Albany Mudflat was to be retrofit consistent with the requirements of BCDC Permit 8-92, to improve the buffering between the trail and the habitat areas. Mitigation requirements in BCDC Permit 8-92 required that tidal

wetland habitat be constructed immediately adjacent to this trail, increasing the need for buffering to ensure mitigation habitat goals are achieved.

3. BCDC Permit No. 8-92, California Department of Transportation (Caltrans); Albany Mudflat.

During the early 1990's Caltrans obtained four BCDC permits to widen the existing four-lane, I-80 freeway to five lanes to add east and west-bound High Occupancy Vehicle (HOV) lanes and to make operational improvements at several interchanges in Alameda and Contra Costa Counties. BCDC Permit 8-92 authorized widening I-80 between Central Avenue in Richmond, Contra Costa County and Gilman Street in Berkeley, Alameda County, and authorized a significant reconfiguration of the I-80-I-580-Buchanan Street Interchange. BCDC required, in part, that Caltrans: (1) create approximately 3.5 acres of tidal marsh and 3.5 acres of transitional upland refugia habitat; (2) construct an approximately 1-mile segment of shoreline access as part of the project; and (3) retrofit an approximately 1/2-mile segment of existing trail (required in BCDC Permit No. 9-87).

Measures taken to reduce disturbance: Caltrans was required to: (1) establish baseline wildlife and habitat values by observing site for one year prior to construction to document use of site by wildlife; (2) construct 4-1/2- to 5-foot-tall opaque fence along entire shoreline trail to prevent wildlife disturbance; (3) provide periodic windows in the fence to allow for wildlife viewing; (4) assess existing habitat and wildlife values at the site prior to construction; (5) monitor wildlife species diversity and abundance and wildlife behavior for three years following opening of the trail and assess any impact of trail use on the habitat and wildlife resources; and (6) cooperate with BCDC and consulting resource agencies to address any impacts identified during the monitoring program.

4. BCDC Permit No. 6-94, City of Redwood City; Redwood Shores.

The project involved upgrading 15,300 linear feet (approximately 2.9 miles) of an existing levee to meet existing U.S. Army Corps of Engineers, Federal Emergency Management Agency, and City standards to maintain long-term, safe, reliable flood protection for the entire Redwood Shores peninsula. The existing exterior levee was improved between 1945 and 1962. The Bay side of the levee is generally bordered by tidal salt marsh, and a variety of native and non-native grasses or shrubs, common to the upland transitional zone of San Francisco Bay marshes. An unpaved pathway exists along the top of the entire levee. On the interior of the levee, the land uses include residential and commercial development, a sewage treatment plant, radio facilities, seasonal wetlands, open space, borrow ditches and salt pannes.

As part of a title settlement between the California State Lands Commission and Redwood Shores' predecessor, in 1974, the State Lands Commission obtained fee title or easement to the levee for the express purpose of providing public access. Though unimproved and unsigned, the levee top is currently used by walkers, joggers, and bike riders. For at least the last 20 years, the public has used the unimproved levee that was raised and strengthened by this project. However, during informal and later formal consultation with the U. S. Fish and Wildlife Service (USFWS) under Section 7 of the Endangered Species Act, the USFWS recommended eliminating access on most of the levee to protect populations of the endangered California Clapper Rail and the Salt Marsh Harvest Mouse living in the

adjoining wetlands. The public access approved in this permit is the result of discussions between BCDC staff, the USFWS, Redwood City, and Redwood Shores to provide an alternative to access on the levee that would be continuous and would provide a Bay experience. Ultimately, the Commission and the State Lands Commission determined that the alternative inland access was sufficient to justify conditional suspension of levee access.

Measures to reduce disturbance: To address the concerns of the USFWS, access over most of levee at the end of the peninsula was discontinued and an alternative access alignment provided that is continuous, that provides views of the Bay at various locations, and that generally runs along existing seasonal wetlands or proposed lagoons, thereby affording an open space experience to the degree possible. The remainder of the levee encircling Redwood Shores remains open to public access. The public access improvements at the tip of the peninsula involve relocating the access from the perimeter levee inland to a trail Point access on raised observation decks was constructed at the terminal of these trails to maximize views.

5. BCDC Permit No. M96-56, Port of Oakland; Arrowhead Marsh.

The Port of Oakland filled alleged wetlands at the Oakland International Airport as part of its on-going expansion. The Audubon Society, the Save San Francisco Bay Association and the Sierra Club sued the Port for violation of Section 404 of the Clean Water Act. The Port and the plaintiffs agreed to settle the lawsuit, and as part of the settlement, the Port agreed to construct approximately 37 acres of tidal and 28 acres of seasonal wetlands adjacent to the existing Arrowhead Marsh. The project site is located adjacent to East Bay Regional Park District's Martin Luther King, Jr. Shoreline Park and Arrowhead Marsh at the southern end of San Leandro Bay, in the City of Oakland. Located on former bay tidelands, the site was filled over a number of years. Arrowhead Marsh, a primarily cordgrass marsh just north of the site, is habitat for the endangered California Clapper Rail.

Measures to reduce disturbance: A number of public access amenities would be constructed as part of this project: (1) two on-grade viewing platforms and one viewing deck with a blind, all with benches and interpretive signs to allow visitors opportunities for wildlife viewing; (2) planting appropriate native vegetation throughout the upland portions of the restored site; and (3) installing a five to six-foot-high wire mesh fence around the entire wetland project perimeter to prevent intrusion into the restored area. The mesh fence is intended to prevent access to wildlife areas. The plantings are concentrated at the parking lot and opaque fencing was installed at the touchdown of a pedestrian bridge and at observation blinds to reduce disturbance at the most concentrated locations of human activity. Interpretive signs that discuss the habitat and resource values present and the need to avoid habitat areas and activities that may disturb wildlife were installed.